

## REMARKS

Claims 1-19 are presently pending in this application. Claims 1, 8, and 15 have been amended herein to include the further limitations of forming a mask layer between the low dielectric constant material and the photoresist layer and forming an opening in the hard mask layer. The amendments herein are made without disclaimer or prejudice to Applicant's right to prosecute claims to further subject matter by way of one or more continuing applications. No new matter is introduced by any of the amendments herein, and entry thereof is respectfully requested.

### The Rejections

Claims 1-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent No. 6,057,239 issued to Wang et al. (hereinafter "Wang") in view of US Patent No. 5,399,202 issued to Kikuchi et al. (hereinafter "Kikuchi"). As amended herein, independent claims 1, 8, and 15 include forming a hard mask layer between the low dielectric constant material and the photoresist layer and forming an opening in the hard mask layer. It will be appreciated that Wang does not teach or suggest a hard mask layer between sacrificial layer 40 and photoresist layer 50. Further, since the structures taught by Wang do not include a hard mask layer between the low dielectric constant material and the photoresist layer, Wang can not be read to teach or suggest forming an opening in such a hard mask layer. Similarly, Kikuchi also does not teach or suggest either forming a hard mask layer between a low dielectric constant material and a photoresist layer, nor forming an opening in such a hard mask layer.

Accordingly, it is believed that the independent claims as amended herein contain elements neither taught or suggested by either Wang or Kikuchi and that therefore the combination of the two references can not render any of the independent claims obvious. Dependent claims 2-7, 9-14, and 16-19 are consequently believed to also be non-obvious over the combination of Wang and Kikuchi. Applicant therefore respectfully requests that the Examiner withdraw the rejections of claims 1-19 under 35 U.S.C. §103(a).

The Amendment is being filed within the first month following the shortened statutory period set by the Examiner and, accordingly, it is accompanied by a petition for one months' extension of time and a fee or fee authorization therefor. In the unlikely event the petition or fee may become separated from this paper, petition is hereby made for the required

extension of time, and the Commissioner is authorized to charge the extension fee to Deposit Account 02-3964 (Order No. 60265-308301 (LAM1P083A)).

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,  
OPPENHEIMER WOLFF & DONNELLY, LLP

A handwritten signature in black ink, appearing to read "Robert Hayden", written in a cursive style.

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